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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re JOSEPH S. et al., Persons  
Coming Under the Juvenile Court  
Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JIMMY S.,

Defendant and Appellant.

B289015

(Los Angeles County  
Super. Ct. No. 17LJJP00171A-D)

APPEAL from an order of the Superior Court of Los  
Angeles County, Robin R. Kesler, Juvenile Court Referee.  
Dismissed.

Mitchell Keiter, under appointment by the Court of Appeal,  
for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Jessica S. Mitchell, Deputy County Counsel, for Plaintiff and Respondent.

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## **INTRODUCTION**

Jimmy S. (Father) appeals from the juvenile court's order declaring children Joseph S. (age 15), Justine S. (age 9), Jonathan S. (age 8) and Jennifer S. (age 6) dependents of the court under Welfare and Institutions Code section 300, subdivision (b).<sup>1</sup> We dismiss the appeal because we cannot grant Father effective relief. Even if we reversed the jurisdiction finding that Father challenges, the juvenile court has jurisdiction over the children by virtue of another sustained count involving him and the children's mother, Wendy S. (Mother), and additional counts as to Mother.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On November 9, 2017, DCFS filed a section 300 dependency petition on behalf of the four children, alleging they were at substantial risk of suffering serious physical harm as a result of Mother's endangering conduct when she drove erratically when the children were in the car (count b-1); Mother's and Father's creation of a detrimental and endangering home environment in that cocaine and methamphetamine were found in the home within access of the children (count b-2); Mother's history of

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

methamphetamine use (count b-3); and Father's history of substance abuse including recent abuse of alcohol (count b-4).

On February 22, 2018, the dependency court sustained all the allegations in the petition, with minor amendments to the first count regarding Mother's erratic driving. The court ordered the children removed from both parents' physical custody and ordered reunification services for both, including monitored visitation. Father's case plan included a substance abuse program with aftercare, a 12-step program, weekly testing for drugs and alcohol, individual counseling, and Alanon classes.

Father timely appealed. Mother did not appeal.

### **DISCUSSION**

Father contends that substantial evidence did not support the dependency court's finding that his substance abuse issues put the children at substantial risk of serious physical harm. Despite his five convictions for driving under the influence, he contends his last such conviction was three years old and notes that his alcohol and drug tests prior to the jurisdiction hearing yielded all clean tests except one that was positive for alcohol.

DCFS argues that Father's challenge to the jurisdiction findings is not justiciable. DCFS notes Father challenges only the substance abuse count, count b-4, but the juvenile court also took jurisdiction on three other independent grounds, including count b-2 regarding Mother's and Father's creation of a detrimental home environment by leaving cocaine and methamphetamine within access of the children. We agree with DCFS that Father's appeal is not justiciable.

"As a general rule, a single jurisdictional finding supported by substantial evidence is sufficient to support jurisdiction and render moot a challenge to the other findings." (*In re M.W.* (2015))

238 Cal.App.4th 1444, 1452.) A decision to reverse the dependency court's findings as to count b-4 would not result in a reversal of the court's order asserting jurisdiction based on the three other unchallenged allegations. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 (*In re I.A.*)) "Under these circumstances, the issues Father's appeal raises are "abstract or academic questions of law" [citation], since we cannot render any relief to Father that would have a practical, tangible impact on his position in the dependency proceeding." (*Id.*; see *In re Drake M.* (2012) 211 Cal.App.4th 754, 762 (*Drake M.*)).

An appellate court may nevertheless exercise its discretion to address the merits of the jurisdictional findings involving a parent where "the finding (1) serves as a basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) 'could have other consequences for [the appellant], beyond jurisdiction.'" (*Drake M., supra*, 211 Cal.App.4th at pp. 762-763.) Father contends we should review the merits of his challenge to count b-4 because the dependency court's findings on that count formed the basis for the disposition that included orders for him to attend a substance abuse program with aftercare, a 12-step program, and weekly drug and alcohol testing.

Father overlooks that the dependency court sustained a separate count alleging he and Mother left cocaine and methamphetamine within access of their children. That count alone justified requiring Father to engage in services centered on substance abuse. Thus, the dependency court could have ordered those same services for Father whether or not it sustained the b-4 count specifically about Father's substance abuse. Even if the

court had not sustained any count involving Father, so long as jurisdiction was taken as a result of Mother's conduct the court had authority to order a case plan for Father including services to address his long-term substance abuse issues. (*In re I.A., supra*, 201 Cal.App.4th at p. 1492 ["[a] jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established"].) Because Father has not established any prejudice from the one jurisdictional finding he challenges, we dismiss the appeal on the ground there is no justiciable controversy for which we can grant any effective relief. (*Ibid.*)

### **DISPOSITION**

The appeal is dismissed.

STONE, J.\*

We concur:

PERLUSS, P. J.

SEGAL, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.